THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 10403 of 2007

Date: 10.07.2007

Between:

Hameed Khan, S/o Raheem Khan,
aged 50 years, Occ: Mechanic, APSRTC Depot,
Sircilla, R/o H.No.10-5-117, B.Y. Nagar,
Sircilla, Karimnagar District.

..... PETITIONER

AND

The A.P. State Road Corporation,
rep. by its Managing Director,
RTC Cross Roads, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 10403 of 2007

Order:

Questioning the impugned suspension order dated 28.04.2007, issued by respondent No.2, placing the petitioner under suspension on the ground that he involved in two criminal cases i.e., in Crime No.89 of 2007 under Section 498-A IPC and under Section 4 of the Dowry Prohibition Act, and in Crime No.123 of 2007 under Sections 147 and 307 read with Section 149 IPC of P.S. Sircilla, the present writ petition is filed.

The petitioner is working as Mechanic in the respondent-Corporation. He states that initially the respondents issued a charge sheet to him on 12.04.2007 alleging that he unauthorisedly absented from his duties, for which he submitted a detailed explanation and having satisfied with his explanation, the respondents allowed him to continue in job. Later on, at the instance of the Sub-Inspector of Police, Sircilla P.S., respondent No.2 again issued another charge sheet dated 28.04.2007 and the consequential suspension order on the very same day on the ground that he was involved in two criminal cases, which is the subject matter of the present writ petition.

The learned counsel for the petitioner submits that the petitioner has been placed under suspension on the ground that he is involved in two criminal cases. He submits that the said offences nothing to do with the day to day discharge of his official duties. He submits that the cases registered against the petitioner not being in connection with discharge of his duties and he having not committed any irregularities in the discharge of his duties, the respondents before placing him under suspension, ought to have seen whether continuance of the petitioner in

service for his involvement in criminal cases, had any impact on his official duties. In support of this argument, he placed reliance on the judgment of a Division Bench of this Court in **P. Rajender v. Union of India**[1]. He submitted that since the offences alleged against the petitioner in the criminal cases has nothing to do with the day to day discharge of his duties, and he having been falsely implicated in the said crimes, he prayed that the respondents be directed to review the continuation or otherwise of his suspension.

Even though the learned counsel for the petitioner submits that the petitioner has submitted his explanation to the second charge sheet as well as the impugned suspension order, the learned Standing Counsel for the respondents-Corporation has denied the same and submitted that the petitioner has not submitted any such explanation so far. He further submits that since the petitioner was involved in two criminal cases, the respondent-Corporation placed the petitioner under suspension until further orders, and no exception can be taken thereto.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation.

The petitioner, admittedly, has been placed under suspension on the ground that he has been involved in two criminal cases for the offences punishable under Sections 498-A, 147 and 307 read with Section 149 IPC. The offences alleged against the petitioner in the criminal case, for the reason of which the petitioner has been placed under suspension, has nothing to do with the day to day discharge of his official duties. In such circumstances, it has to be seen whether the continuation of the petitioner under suspension would be in public interest and whether the criminal cases registered against him, has any impact on the day to day discharge of his official duties.

In fact, a Division Bench of this Court, having considered similar issue, as is involved in this case, in **P. Rajender v. Union of India**, held as follows:

> Suspension pending investigation, inquiry or trial is interim in nature. The aforementioned rule clearly suggests that an order of suspension is not required to be passed only because it will be lawful to do so. An application of mind on the part of the competent authority is *sine qua non* for passing such order of suspension, therefore, it is expected that the appropriate authority shall not only take into consideration the public interest but shall also take into consideration the relevant facts and attendant circumstances as to how far and to what extent the public interest may suffer if the delinquent officer is not placed under suspension.

The petitioner, admittedly, was placed under suspension on 28.04.2007. The suspension of the petitioner is not in connection with any irregularities committed by him while discharging his official duties, but is in connection with that criminal cases have been registered against him, for the offences under Sections 498-A, 147 and 307 r/w Section 149 IPC, which offences, admittedly, do not have any bearing on the discharge of official duties by the petitioner. According to the petitioner, he has nothing to do with the said offences and he is falsely implicated in the said cases. However, the petitioner has not brought the same to the notice of the respondent-Corporation by submitting any explanation. Hence,

with the consent of both the counsel, I deem it appropriate to dispose of the writ petition with the following directions:

The petitioner is directed to submit a detailed explanation to the impugned show cause notice and the consequential suspension order issued by the 2nd respondent, namely the Depot Manager, and on submitting such explanation, the

2nd respondent-Depot Manager shall consider the same in the light of the Division Bench judgment of this Court in **P. Rajender v. Union of India,** and pass appropriate orders thereon, expeditiously. No costs.

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N.V. RAMANA, J.

Date: 10.07.2007

Note:
Issue CC on priority basis
(B/O)
Nsr

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[1] 2001 (5) ALD 290 (DB)